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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-425

13 **BARBARA ANN HOWCROFT,**
14 **aka BARBARA A. HOWCROFT**
15 **23385 Drayton Drive**
16 **Boca Raton, FL 33433**

A C C U S A T I O N

17 **Registered Nurse License No. 672679**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
23 Department of Consumer Affairs.

24 2. On or about January 30, 2006, the Board issued Registered Nurse License Number
25 672679 to Barbara Ann Howcroft, also known as Barbara A. Howcroft ("Respondent").
26 Respondent's registered nurse license was in full force and effect at all times relevant to the
27 charges brought herein and will expire on June 30, 2013, unless renewed.

28 **STATUTORY PROVISIONS**

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the
11 following:

11

12 (4) Denial of licensure, revocation, suspension, restriction, or any other
13 disciplinary action against a health care professional license or certificate by another
14 state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action . . .

15 **COST RECOVERY**

16 6. Code section 125.3 provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licensee found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 **CAUSE FOR DISCIPLINE**

21 **(Disciplinary Action by the State of Florida Board of Nursing)**

22 7. Respondent is subject to disciplinary action pursuant to Code section 2761,
23 subdivision (a)(4), on the grounds of unprofessional conduct, in that she was disciplined by the
24 State of Florida Board of Nursing ("Florida Board"), as follows: On or about November 1, 2011,
25 pursuant to the Settlement Agreement approved and adopted by the Florida Board as their Final
26 Order in the disciplinary proceeding titled "Department of Health vs. Barbara A. Howcroft", Case
27 No. 2010-22608, the Florida Board ordered that Respondent's license be reprimanded. The Board
28 further ordered that Respondent shall enroll in and successfully complete courses in Medication


1 Administration and Documentation, and that Respondent's license be suspended until such time
2 as she undergoes an evaluation coordinated by the Intervention Project for Nurses (IPN) and
3 complies with any and all terms and conditions imposed by IPN as a result of said evaluation.
4 Pursuant to the Administrative Complaint attached to the Settlement Agreement, Respondent is
5 alleged to have failed to accurately account for narcotics (specifically, the controlled substance
6 Percocet) removed from the Pyxis for Patients J.A., S.E., G.C., and J. T., while employed as a
7 registered nurse at North Broward Medical Center located in Deerfield Beach, Florida. True and
8 correct copies of the Final Order and the attached Settlement Agreement and Administrative
9 Complaint are attached hereto as exhibit A and incorporated herein.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

- 13 1. Revoking or suspending Registered Nurse License Number 672679, issued to Barbara
14 Ann Howcroft, also known as Barbara A. Howcroft;
- 15 2. Ordering Barbara Ann Howcroft, also known as Barbara A. Howcroft, to pay the
16 Board of Registered Nursing the reasonable costs of the investigation and enforcement of this
17 case, pursuant to Business and Professions Code section 125.3;
- 18 3. Taking such other and further action as deemed necessary and proper.

19
20 DATED: November 27, 2012

for 
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

**Final Order (and related documents)
State of Florida Board of Nursing, Case No. 2010-22608**

STATE OF FLORIDA
BOARD OF NURSING

Final Order No. DOH-11-2713- ⁵ -MQA
FILED DATE - 11-2-11
Department of Health
By: Amy L. Carr
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs..

Case No.: 2010-22608
License No.: RN 3196712

BARBARA A. HOWCROFT,

Respondent.

FINAL ORDER

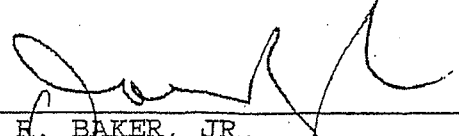
THIS CAUSE came before the BOARD OF NURSING (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on October 7, 2011, 2011, in Jacksonville, Florida, for the purpose of considering a settlement agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the settlement agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED that the settlement agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference. The costs are \$3,507.61. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the settlement agreement.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 1 day of Nov, 2011.

BOARD OF NURSING



JOE R. BAKER, JR.
Executive Director for
Jessie Colin, RN, PhD
Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to BARBARA A. HOWCROFT, c/o David Spicer, Esquire, 11000 Prosperity Farms Road, Suite 104, Palm Beach Gardens, FL 33410 and Intervention Project for Nurses, P.O. Box 49130, Intervention Project for Nurses, Jacksonville FL 32240; and by interoffice delivery to Lee Ann Gustafson, Senior Assistant Attorney General, Department of Legal Affairs, PL-01 The Capitol, Tallahassee FL 32399-1050, Jodi-Ann Johnson, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265 this 2 day of November, 2011.



Deputy Agency Clerk

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**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO.: 2010-22608

BARBARA A. HOWCROFT, R.N.,

Respondent.

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the above named parties hereby offer this Agreement to the Board of Nursing as disposition of the Administrative Complaint, attached hereto as Exhibit "A", in lieu of any other administrative proceedings. The terms herein become effective only if and when a Final Order accepting this Agreement is issued by the Board and filed. In considering this Agreement, the Board may review all investigative materials regarding this case. If this Agreement is rejected, it, and its presentation to the Board, shall not be used against either party.

STIPULATED FACTS

1. Respondent is a **REGISTERED NURSE** in the State of Florida holding license number **3196712**.
2. The Respondent is charged by an Administrative Complaint filed by the Department and properly served upon Respondent with violations of Chapters 456

and/or 464, Florida Statutes. A true and correct copy of the Administrative Complaint is attached hereto and incorporated by reference as Exhibit A.

3. Respondent neither admits nor denies the factual allegations contained in the Administrative Complaint.

STIPULATED LAW

1. Respondent admits that she is subject to the provisions of Chapters 456 and 464, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the stipulated facts, if proven true, constitute violations of laws as alleged in the Administrative Complaint.

3. Respondent admits that the Agreement is a fair, appropriate and reasonable resolution to this pending matter.

PROPOSED DISPOSITION

1. The Board of Nursing shall reprimand the license of the Respondent.

2. The Respondent must pay investigative costs not to exceed **four thousand one hundred seventeen dollars and fourteen cents (\$4,117.14)** within four (4) years from the date of entry of the Final Order. However, if the Respondent is in the Intervention Project for Nurses (IPN), the payment is due prior to completion of IPN. If the Respondent's license is suspended by the terms of this agreement, the payment is due prior to the application for reinstatement of the license. If the Respondent is placed on probation, the payment is due prior to the completion of the probationary period. The Respondent has the responsibility to document financial hardship prior to the due date of the payment. Payment must be

by money order. Partial payments shall be accepted. Payment shall be made to the Board of Nursing and mailed to, Compliance Management Unit, Bin C76, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Nursing Compliance Officer.

3. The Respondent shall enroll in and successfully complete courses in **Medication Administration (4 hours) and Documentation (4 hours)**. This shall be in addition to other normally required continuing education courses. Verification of course content and course completion must be submitted to the Nursing Compliance Officer within six (6) months from the date of this Order. The Board will retain jurisdiction for the purpose of enforcing continuing education requirements.

4. The license of **Barbara A. Howcroft, R.N.**, is suspended until such time that he/she undergoes an evaluation coordinated by the Intervention Project for Nurses (IPN), and complies with any and all terms and conditions imposed by IPN as a result of said evaluation. At such time the suspension shall be stayed and remain stayed as long as the Respondent participates in the IPN. It is the duty of the Respondent to contact the IPN at P.O. Box 49130, Jacksonville Beach, Florida 32249-9130, (904) 270-1620 within 30 days from the date of entry of the Final Order.

5. If the Respondent is in need of monitoring or treatment, the Respondent shall comply with all conditions of the IPN Advocacy Contract or she/he will be in violation of the Board Order. Violation of the IPN Advocacy Contract shall result in the immediate lifting of the stay of suspension. Reinstatement will require compliance with all terms and conditions set forth in any previous Board Order and appearance before the Board to demonstrate present ability to engage in the safe practice of nursing,

which shall include a demonstration of two (2) years of documented continuous sobriety. The Board reserves the right to impose reasonable conditions of reinstatement at the time the Respondent appears before the Board to demonstrate the present ability to engage in the safe practice of nursing.

6. If the Respondent is not in need of monitoring or treatment and the IPN is not suitable, no further action will be required.

7. The Respondent shall not violate Chapter 456 or 464, Florida Statutes, the rules promulgated pursuant thereto, any other state or federal law, rule, or regulation relating to the practice or the ability to practice nursing. Violation of an order from another state/jurisdiction shall constitute grounds for violation of the Board Order adopting this Agreement.

8. It is expressly understood that this Agreement is subject to the approval of the Board and Department and has no force and effect until an Order is entered adopting the Agreement.

9. This Agreement is executed by the Respondent for the purpose of avoiding further administrative action by the Board of Nursing regarding the acts or omissions specifically set forth in the Administrative Complaint attached hereto. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to, or in conjunction with, consideration of the Agreement. Furthermore, should this joint Agreement not be accepted by the Board, it is agreed that presentation to, and consideration of, this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board

or any of its members from further participation, consideration or resolution of these proceedings. Respondent shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law.

10. Respondent and the Department fully understand that this joint Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or Department against the Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached hereto. This Agreement relates solely to the current disciplinary proceedings arising from the above-mentioned Administrative Complaint and does not preclude further action by other divisions, departments, and/or sections of the Department, including but not limited to the Agency for Health Care Administration's Medicaid Program Integrity Office.

11. The Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this disciplinary proceeding.

12. Respondent waives all rights to appeal and further review of this Agreement and these proceedings.

WHEREFORE, the parties hereto request the Board to enter a Final Order accepting and implementing the terms contained herein.

SIGNED this 13 day of July, 2011.

Barbara A. Howcroft
BARBARA A. HOWCROFT, R.N.

Before me personally appeared Barbara A. Howcroft whose identity is known to be by Florida Drivers License (type of identification), and who under oath, acknowledges that his/her signature appears above. Sworn to and subscribed by Respondent before me this 13 day of July, 2011.

Arlean S. Giv
Notary Public
My Commission Expires:



ALEENE E. SPIKER
MY COMMISSION # EE-062155
EXPIRES: February 6, 2015
Bonded thru Surety Notary Services

APPROVED this 21st day of July, 2011.

H. Frank Farmer, Jr., M.D., Ph.D.
State Surgeon General

P. F. Monte

Counsel for Petitioner:
Philip F. Monte
Assistant General Counsel
FBN: 580406
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, BIN #C-65
Tallahassee, Florida 32399-3285

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

CASE NO. 2010-22608

v.

BARBARA A. HOWCROFT, R.N.,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Nursing against Respondent, Barbara A. Howcroft, R.N., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of nursing pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 464, Florida Statutes.

2. At all times material to this Complaint, Respondent was a registered nurse (R.N.) within the state of Florida, having been issued license number RN 3196712.

3. Respondent's address of record is 23385 Drayton Drive, Boca Raton, Florida 33433.

4. At all times material to this Complaint, Respondent was employed as a R.N. at North Broward Medical Center (NBMC) located in Deerfield Beach, Florida.

5. NBMC utilized an automated medication dispensing system (Pyxis). Pyxis is a locked cart that contains controlled substances and is accessed through the use of a computer. Each time a nurse removes a controlled substance from the Pyxis cart, he or she must indicate which patient the medication is intended for. If the dose available in the Pyxis cart is greater than the dose ordered by the physician, the nurse must discard the excess in the presence of a witness and document doing so in the Pyxis computer. This is done in order to accurately account for controlled substances removed and to assure proper patient billing for nursing care provided. In order to accurately record care rendered to the patient, all medications administered must be documented in the patient's record.

6. Each time a nurse removes a medication from Pyxis, the medication, date, time, patient for whom the drug is intended, and nurse

removing the drug is recorded in the Pyxis computer. Reports showing what medications were removed from Pyxis by specific nurses can be generated from Pyxis.

7. At all times material to this Complaint, Respondent was assigned to provide care to Patient J.A., who had a valid physician's order for 1-2 tablets of Percocet every four hours as needed.

8. Percocet is the brand name for a drug that contains oxycodone and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of oxycodone may lead to severe psychological or physical dependence.

9. While working at NBMC Respondent failed to accurately account for narcotics removed from Pyxis for J.A. on one or more of the following occasions:

- a. on or about September 20, 2010, at approximately 8:01 p.m., Respondent removed 2 tablets of Percocet (5/325) from Pyxis for Patient J.A. Respondent failed to document the administration and/or the waste of the Percocet; and/or

b. on or about September 20, 2010, at approximately 11:35 p.m., Respondent removed 2 tablets of Percocet (5/325) from Pyxis for Patient J.A. Respondent documented the administration of one tablet of Percocet at 12:00 a.m. (September 21, 2010). Respondent failed to document the administration and/or the waste of the remaining tablet of Percocet; and/or

c. on or about September 21, 2010, at approximately 2:22 a.m., Respondent removed 2 tablets of Percocet (5/325) from Pyxis for Patient J.A. Respondent failed to document the administration and/or waste of the Percocet; and/or

d. on or about September 21, 2010, at approximately 5:57 a.m., Respondent removed 2 tablets of Percocet (5/325) from Pyxis for Patient J.A. Respondent failed to document the administration and/or waste of the Percocet.

10. At all times material to this Complaint, Respondent was assigned to provide care to Patient S.E., who had a valid physician's order for 1 tablet of Percocet every four hours as needed for mild pain or 2 tablets of Percocet every six hours as needed for moderate to severe pain.

11. While working at NBMC Respondent failed to accurately account for narcotics removed from Pyxis for Patient S.E. on one or more of the following occasions:

a. on or about September 20, 2010, at approximately 10:01 p.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient S.E. Respondent failed to document the administration and/or waste of the Percocet; and/or

b. on or about September 20, 2010, at approximately 11:36 p.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient S.E. Respondent failed to document the administration and/or waste of the Percocet; and/or

c. on or about September 21, 2010, at approximately 8:08 p.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient S.E. Respondent failed to document the administration and/or waste of the Percocet.

12. At all times material to this Complaint, Respondent was assigned to provide care to Patient G.C., who had a valid physician's order for 1-2 tablets of Percocet every four hours as needed.

13. While working at NBMC Respondent failed to accurately account for narcotics removed from Pyxis for Patient G.C. on one or more of the following occasions:

a. on or about September 25, 2010, at approximately 7:46 p.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient G.C. Respondent failed to document the administration and/or waste of the Percocet; and/or

b. on or about September 25, 2010, at approximately 11:18 p.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient G.C. Respondent failed to document the administration and/or waste of the Percocet; and/or

c. on or about September 26, 2010, at approximately 2:52 a.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient G.C. Respondent failed to document the administration and/or waste of the Percocet; and/or

d. on or about September 26, 2010, at approximately 7:59 p.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient G.C. Respondent failed to document the administration and/or waste of the Percocet; and/or

e. on or about September 26, 2010, at approximately 11:23 p.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient G.C. Respondent failed to document the administration and/or waste of the Percocet; and/or

f. on or about September 27, 2010, at approximately 12:38 a.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient G.C. Respondent failed to document the administration and/or waste of the Percocet; and/or

g. on or about September 27, 2010, at approximately 3:16 a.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient G.C. Respondent failed to document the administration and/or waste of the Percocet.

14. At all times material to this Complaint, Respondent was assigned to provide care to Patient J.T., who had a valid physician's order for 1 tablet of Percocet every four hours as needed for mild pain or two tablets of Percocet every four hours as needed for moderate pain.

15. While working at NBMC Respondent failed to accurately account for narcotics removed from Pyxis for Patient J.T. on one or more of the following occasions:

a. on or about September 25, 2010, at approximately 7:44 p.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient J.T. Respondent failed to document the administration and/or waste of the Percocet; and/or

b. on or about September 25, 2010, at approximately 11:17 p.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient J.T. Respondent failed to document the administration and/or waste of the Percocet; and/or

c. on or about September 26, 2010, at approximately 3:05 a.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient J.T. Respondent failed to document the administration and/or waste of the Percocet; and/or

d. on or about September 26, 2010, at approximately 3:18 a.m., Respondent removed two tablets of Percocet (5/325) from Pyxis for Patient J.T. Respondent failed to document the administration and/or waste of the Percocet.

16. Section 464.018(1)(h), Florida Statutes (2010), provides that unprofessional conduct, as defined by board rule, constitutes grounds for disciplinary action by the Board of Nursing.

17. Rule 64B9-8.005(1), Florida Administrative Code, provides that unprofessional conduct includes inaccurate recording.

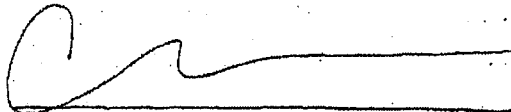
18. As set forth above, Respondent inaccurately recorded by failing to document the administration and/or the waste of the Percocet withdrawn while working at NBMC for Patients J.A., S.E., G.C. and/or J.T., on September 20, 21, 22, 25, 26, and/or 27, 2010.

19. Based on the foregoing, Respondent violated Section 464.018(1)(h), Florida Statutes (2010), by engaging in unprofessional conduct, as defined by Rule 64B9-8.005(1), Florida Administrative Code, to include inaccurate recording.

WHEREFORE, the Petitioner respectfully requests that the Board of Nursing enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 10th day of May, 2011.

H. Frank Farmer, Jr., M.D., Ph.D.
State Surgeon General



Carla A. Schell
Assistant General Counsel
DOH Prosecution Services Unit
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(850) 245 - 4683 Facsimile

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Angel Sanders
DATE MAY 11 2011

PCP: 5/10/11
PCP Members: L. Kirkpatrick & B. Kemp
/CS

DOH v. Barbara A. Howcroft, R.N.
CASE NO. 2010-22608

\\Carla Schell\AC\Unprofessional Conduct\Howcroft RN (inaccurate recording).doc

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.